

SCOTT N. SCHOOLS, SC SBN 9990
 United States Attorney
 JOANN M. SWANSON, CSBN 88143
 Assistant United States Attorney
 Chief, Civil Division
 ILA C. DEISS, NY SBN 3052909
 Assistant United States Attorney
 450 Golden Gate Avenue, Box 36055
 San Francisco, California 94102
 Telephone: (415) 436-7124
 FAX: (415) 436-7169

Attorneys for Defendants

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

MAHSHID KIANFARD,)	
)	No. C 07-2904 WDB
Plaintiff,)	
)	
v.)	
)	ANSWER
ALBERTO R. GONZALES, Attorney General)	
of the United States in his Official Capacity;)	
ROBERT S. MUELLER, Director of FBI in his)	
Official Capacity;)	
MICHAEL CHERTOFF, Secretary of the)	
Department of Homeland Security, in his Official)	
Capacity;)	
EMILIO T. GONZALEZ, Director of the United)	
States Citizenship and Immigration Services, in)	
his Official Capacity;)	
ROSEMARY MELVILLE, District Director of)	
the San Francisco Citizenship and Immigration)	
Services, in her Official Capacity,)	
)	
Defendants.)	

Defendants hereby submit their answer to Plaintiff's Complaint for Writ of Mandamus.

JURISDICTION

1. Paragraph One consists of Plaintiff's allegation regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendants deny the allegations in this paragraph.

VENUE

2. Paragraph Two consists of Plaintiff's allegations regarding venue, to which no responsive pleading is required.

INTRADISTRICT ASSIGNMENT

3. Paragraph Three consists of Plaintiff's allegations regarding intradistrict assignment, to which no responsive pleading is required.

PARTIES

4. Paragraph Four consists of Plaintiff's conclusions of law and characterizations of the lawsuit for which no answer is necessary; however, to the extent a response is deemed to be required, Defendants admit the allegations in this paragraph.

5. Defendants admit the allegations in Paragraph Five.

6. Defendants admit the allegations in Paragraph Six.

7. Defendants admit the allegations in Paragraph Seven.

8. Defendants admit the allegations in Paragraph Eight.

9. Defendants admit the allegations in Paragraph Nine.

EXHAUSTION OF REMEDIES

10. Defendants deny that Plaintiff has exhausted her administrative remedies.

FACTS

11. Defendants admit the allegations in Paragraph Eleven.

12. Defendants admit the allegations in Paragraph Twelve.

13. Defendants admit the allegations in Paragraph Thirteen; however, defendants deny that the application is not in the regular processing queue.

14. Defendants admit the allegations in Paragraph Fourteen.

15. Defendants admit that the application is currently still pending with USCIS; however, defendants deny the remaining allegations in Paragraph Fifteen.

16. Defendants deny the allegations in Paragraph Sixteen.

17. Defendants deny the allegations in Paragraph Seventeen.

18. Defendants deny the allegations in Paragraph Eighteen.

PRAYER

19. Paragraph Nineteen consists of Plaintiff's prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, the Defendants deny this paragraph.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The court should dismiss the complaint under Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction.

WHEREFORE, Defendants pray for relief as follows:

That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's complaint with prejudice; that Plaintiff take nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: August 6, 2007

Respectfully submitted,

SCOTT N. SCHOOLS
United States Attorney

/s/

ILA C. DEISS
Assistant United States Attorney
Attorneys for Defendants